

### **REMARKS**

The Office Action mailed August 18, 2005, has been reviewed. Claims 43-48, 50, and 52-53 remain in this application in which claims 43, 48, and 52 have been amended. Claims 1-42, 49, 51, and 54-61 are cancelled herein. Claims 62-70 have been added for the Examiner's consideration. In view of the above-referenced amendments and the remarks recited herein, Applicants respectfully submit that claims 43-48, 50, 52-53, and 62-70 are now in condition for allowance and respectfully request such claims be passed to issue.

#### **Rejection of Claims 7, 8, 35, 36, and 60 Under 35 U.S.C. § 112**

In the Office Action mailed August 18, 2005, claims 7, 8, 35, 36, and 60 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicants regard as the invention. Applicants respectfully submit that the rejection of claims 7, 8, 35, 36, and 60 has been obviated by the present amendments in that claims 7, 8, 35, 36, and 60 have been cancelled.

In view of the cancellation of claims 7, 8, 35, 36, and 60, Applicants respectfully request that the rejection of such claims under 35 U.S.C. § 112, second paragraph, be withdrawn.

#### **Rejection of Claims 1, 2, 6-16, 20-30, and 34-42 Under 35 U.S.C. § 102(b)**

In the Office Action mailed August 18, 2005, claims 1, 2, 6-16, 20-30, and 34-42 were rejected under 35 U.S.C. § 102(b) as being anticipated by McWha (U.S. Patent No. 5,871,327).

Applicants respectfully disagree that claims 1, 2, 6-16, 20-30, and 34-42 are anticipated by the McWha reference. However, in an effort to expedite prosecution of the present application, Applicants respectfully submit that the rejection of claims 1, 2, 6-16, 20-30, and 34-42 has been obviated by the present amendments in that claims 1, 2, 6-16, 20-30, and 34-42 have been cancelled. Thus, no further comments concerning such rejection is believed to be necessary to be fully responsive to the Office Action mailed August 18, 2005.

In view thereof, it is respectfully requested that the rejection of claims 1, 2, 6-16, 20-30, and 34-42 under 35 U.S.C. § 102(b) be withdrawn.

**Rejection of Claims 43, 48, 50, 52-55, 60, and 61 Under 35 U.S.C. § 102(b)**

In the Office Action mailed August 18, 2005, claims 43, 48, 50, 52-55, 60, and 61 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bruhn (U.S. Patent No. 4,275,981).

For the reasons set forth below, the rejection of claims 43, 48, 50, 52-55, 60, and 61 under 35 U.S.C. § 102(b) is respectfully traversed. Applicants respectfully disagree that claims 43, 48, 50, 52-55, 60, and 61 are anticipated by the Bruhn reference. However, claims 43, 48, 50, and 52 have been amended to further clarify Applicants' inventive concept. Claims 54-55, 60 and 61 are cancelled. New claims 62-70 have been added for the Examiner's consideration.

Applicants' invention, as defined in claim 43 (as amended), is a storage rack connectable to a tailgate of a vehicle for supporting a tire. The storage rack includes a load supporting structure adapted to support the tire when the tire is associated with the

load supporting structure. A bracket assembly is connected to the load supporting structure and is attachable to the tailgate. The storage rack also has a lift assembly that includes a lift member and a lever. The lift member is pivotally connected to the load supporting structure. The lever is connected to the lift member so as to permit the lift assembly to be folded to an extended position. The lever forms a ramp when the lever is positioned in the extended position whereby the tire can be rolled up the ramp formed by the lever and positioned on the lift member. The lever is engaged with the lift member to permit the lift member to be rotated toward the load supporting structure by lifting the lever so that the tire is transferred from the lift member to the load supporting structure.

Applicants' invention, as defined in new claim 67, is a storage rack for a vehicle. The storage rack includes a load supporting structure adapted to support a load and being attachable to the vehicle. A lift member is pivotally connected to the load supporting structure. A lever is connected to the lift member. The lever forms a ramp to permit the load to be moved up the lever and positioned on the lift member. The lever is engaged with the lift member to permit the lift member to be rotated toward the load supporting structure by lifting the lever so that the load is transferred from the lift member to the load supporting structure and subsequently lifted to the load supporting structure by movement of the lift member towards the load supporting structure.

The Bruhn reference teaches a vehicle mounted motorcycle carrier having a pair of support arms for attachment to a vehicle and a ramp for holding a motorcycle. The ramp is pivotally connected to one of the support arms such that when the ramp is tilted downwardly off the second arm (FIG. 1), the motorcycle can be wheeled up the ramp to a point such that the combined centers of gravity of the motorcycle and the ramp will cause

the ramp to pivot down onto the second arm. The motorcycle remains on the ramp for transportation by the vehicle. In other words, although the load of the motorcycle is supported by the support arms, the load also remains on the ramp.

In contrast, the lift member is defined in claims 43 and 67 as being connected to the load supporting structure such that the load of the tire is transferred from the lift member. Therefore, for the reason that the Bruhn reference does not teach a storage rack wherein a load is transferred from a lift member to a load supporting structure, but rather teaches a vehicle mounted motorcycle carrier wherein the motorcycle remains on the lift member (ramp) for transportation to a desired location, Applicants' inventive concept, as recited in claims 43 (as amended) and new claim 67 is not anticipated by the Bruhn reference.

In view thereof, it is respectfully requested that the Examiner withdraw the rejection of claims 43, 48, 50, 52-55, 60, and 61 under 35 U.S.C. § 102(b) as applicable to the claims now pending in the application and pass same to issue.

#### **Rejection of Claims 3, 4, 17, 18, 31, and 32 Under 35 U.S.C. § 103(a)**

In the Office Action mailed August 18, 2005, claims 3, 4, 17, 18, 31, and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McWha in view of Allen (U.S. Patent No. 4,709,840).

Applicants respectfully disagree with the rejection of such claims under 35 U.S.C. § 103(a). Applicants respectfully submit that the combination of the prior art references of McWha in view of Allen do not make obvious the present invention recited in claims 3, 4, 17, 18, 31, and 32. However, in an effort to expedite the prosecution of the present application, Applicants respectfully submit that the rejection of claims 3, 4, 17, 18, 31, and 32 has been obviated by the present amendments in that claims 3, 4, 17, 18, 31, and 32

have been cancelled. Thus, no further comments concerning such rejection is believed to be necessary to be fully responsive to the Office Action mailed August 18, 2005.

For the foregoing reasons, it is respectfully requested that the rejection of claims 3, 4, 17, 18, 31, and 32 under 35 U.S.C. § 103(a) be withdrawn.

**Rejection of Claims 5, 19, and 33 Under 35 U.S.C. § 103(a)**

In the Office Action mailed August 18, 2005, claims 5, 19, and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McWha in view of Allen and further in view of Sinkey (U.S. Patent No. 3, 387,754).

Applicants respectfully disagree with the rejection of such claims under 35 U.S.C. § 103(a). Applicants respectfully submit that the combination of the prior art references of McWha in view of Allen and further in view of Sinkey do not make obvious the present invention recited in claims 5, 19, and 33. However, in an effort to expedite the prosecution of the present application, Applicants respectfully submit that the rejection of claims 5, 19, and 33 has been obviated by the present amendments in that claims 5, 19, and 33 have been cancelled. Thus, no further comments concerning such rejection is believed to be necessary to be fully responsive to the Office Action mailed August 18, 2005.

For the foregoing reasons, it is respectfully requested that the rejection of claims 5, 19, and 33 under 35 U.S.C. § 103(a) be withdrawn.

**Rejection of Claims 44-57, and 58 Under 35 U.S.C. § 103(a)**

In the Office Action mailed August 18, 2005, claims 44-47, and 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruhn in view of Allen.

It is respectfully submitted that the rejection is obviated in part and overcome in part. That is, claim 58 has been cancelled, thereby obviating the rejection of such claim. However, for the reasons set forth below, Applicants respectfully submit that the combination of the prior art references of Bruhn in view of Allen do not teach, disclose, or even suggest the invention recited in claims 44-47.

As set forth above, it is Applicants' belief that the Bruhn reference does not teach or suggest the storage rack defined by claim 43, as amended, and for the same reasons the Bruhn reference does not render obvious the storage rack recited in claims 44-47 which depend from claim 43. The arguments and comments concerning Bruhn set forth above will not be reiterated herein, but such are deemed relevant to the Examiner's rejection of claims 44-47 and are therefor incorporated herein by reference.

It is submitted that the Allen reference does not supply the before-described deficiencies of Bruhn. Allen discloses a universal folding carrier for carrying objects on tailgates of pickup trucks and trunk lids of automobiles and has a frame to which a carrying member and a supporting member are pivotally mounted for movement between an extended position and a collapsed position.

From above, it is clear that the apparatus disclosed in the Allen reference is different in structure and function than the rack recited in Applicants' claims 44-47. The Allen reference does not disclose a storage rack wherein a load is transferred from a lift member to a load supporting structure as recited in Applicants' claims as recited in Applicants' claim 43.

Therefore, it is respectfully requested that the rejection of claims 44-47, and 58 under 35 U.S.C. § 103(a) be withdrawn.

**Rejection of Claims 49, 51, 56 and 57 Under 35 U.S.C. § 103 (a)**

In the Office Action mailed August 18, 2005, claims 49, 51, 56, and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruhn in view of McWha.

Applicants respectfully disagree with the rejection of such claims under 35 U.S.C. § 103(a). Applicants respectfully submit that the combination of the prior art references of Bruhn in view of McWha, whether viewed singularly or in combination, do not teach, disclose, or even suggest the present invention recited in claims 49, 51, 56, and 57. However, in an effort to expedite the prosecution of the present application, Applicants respectfully submit that the rejection of claims 49, 51, 56, and 57 has been obviated by the present amendments in that claims 49, 51, 56, and 57 have been cancelled. Thus, no further comments concerning such rejection is believed to be necessary to be fully responsive to the Office Action mailed August 18, 2005.

For the foregoing reasons, it is respectfully requested that the rejection of claims 49, 51, 56, and 57 under 35 U.S.C. § 103(a) be withdrawn.

**Rejection of Claims 59 Under 35 U.S.C. § 103(a)**

In the Office Action mailed August 18, 2005, claims 49, 51, 56, and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruhn in view of Allen and further in view of Sinkey.

Applicants respectfully disagree with the rejection of such claims under 35 U.S.C. § 103(a). Applicants respectfully submit that the combination of the prior art references of Bruhn in view of Allen and further in view of Sinkey do not make obvious the present invention recited in claim 59. However, in an effort to expedite the prosecution of the

present application, Applicants respectfully submit that the rejection of claim 59 has been obviated by the present amendment in that claim 59 has been cancelled. Thus, no further comments concerning such rejection is believed to be necessary to be fully responsive to the Office Action mailed August 18, 2005.

For the foregoing reasons, it is respectfully requested that the rejection of claim 59 under 35 U.S.C. § 103(a) be withdrawn.

#### **Prior Art Made of Record**

The prior art made of record and not relied upon has been reviewed. However, it is Applicants' belief that none of the references, either singularly or in combination, teach, disclose, or even suggest the apparatus claimed in the present application. Thus, no further comments concerning such references are deemed necessary.

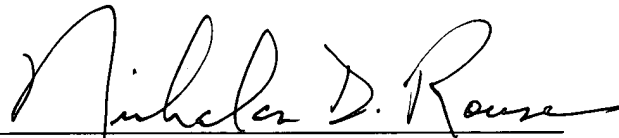


### CONCLUSION

This is intended to be a complete response to the Office Action mailed August 18, 2005. It is Applicants' belief that the inventive concept recited in the pending claims is patentable over the art of record and that such claims are necessary to afford Applicants with the degree of patent protection to which Applicants are entitled by law. In view of the above, Applicants respectfully submit the claims are in a condition for allowance and requests issuance of a Notice of Allowance thereof.

Should the Examiner have any questions or comments concerning the before-mentioned amendments to the application or any other matter, Applicants' attorney will welcome the opportunity to discuss same with the Examiner.

Respectfully submitted,

A handwritten signature in black ink, reading "Nicholas D. Rouse". The signature is fluid and cursive, with the first name "Nicholas" being more prominent and the last name "Rouse" following in a similar style. The signature is written over a horizontal line.

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